



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

LCC:ddj
Docket No: 8079-99
16 May 2000

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum 1920 SER 834D/538 of 11 April 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1920
Ser 834D/538
11 Apr 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS

Via: Assistant for BCNR Matters, PERS-OOZCB

Subj: [REDACTED]

Ref: (a) BCNR memo 5420 Pers-OOZCB of 10 Mar 00
(b) CHNAVPERs ltr 1920 Pers-834D/Pers-822 Ser 2036
of 10 Dec 97
(c) SECNAVINST 1920.6A

Encl: (1) LTJG Doherty's ltr of 12 Nov 97 w/end
(2) BCNR Case File #08079-99 w/Microfiche Service Record

1. Reference (a) requested comments and recommendations regarding former [REDACTED] request to change his separation code to reflect an involuntary separation. Former [REDACTED] will hereafter be referred to as "petitioner." By reference (b), the Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN(M&RA)) approved the petitioner's voluntary request for separation by reason of personality disorder and approved recoupment of a portion of the advanced educational assistance that the petitioner received. The ASN(M&RA) reviewed enclosure (1) before he approved separation and recoupment. Note that this enclosure contains substantially the same information as presented to BCNR in enclosure (2). Since no new information has been provided, overturn of the ASN's decision would be inappropriate.

2. The following timeline may be helpful:

7 Feb 97 - Petitioner receives mental health examination recommending separation for cause due to personality disorder
13 Aug 97 - Petitioner submits voluntary resignation request
26 Aug 97 - Petitioner's CO favorably endorses voluntary resignation request
6 Oct 97 - CNP notifies petitioner of recoupment due to his voluntary request for separation
12 Nov 99 - Petitioner contests recoupment
10 Dec 97 - CNP recommends separation and recoupment
18 Dec 97 - ASN authorizes separation and recoupment
28 Feb 98 - Petitioner separated

- [REDACTED]
3. Under reference (c), separations for cause must be initiated by the Commanding Officer. Note that even though the mental health provider recommended separation for cause in February 1997, the petitioner's Commanding Officer took no action toward separation.
 4. The petitioner claims that he has been unfairly subject to recoupment based on legal counsel he obtained that prompted him to submit a resignation in order to expedite separation processing. However, once notified that recoupment would be initiated due to his voluntary submission of a resignation, the petitioner failed to withdraw his resignation request.
 5. Had the petitioner withdrawn his resignation request, he would have been offered an opportunity for redesignation to another community where he might avoid sea service, and thus remove the cause of his psychological difficulties. Involuntary separation would have been initiated only as a last resort.
 6. PERS-834 Point of Contact is LCDR Keith Lindsey, 874-4420.

P. S. Posey
P. S. POSEY
LCDR, U.S. Navy
Head, Officer Performance Branch